

REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

Claims 15 and 23-38 have been canceled in this paper. Claims 1, 2, 16 and 21 have been amended in this paper. Claims 39-41 have been added in this paper. Therefore, claims 1-14, 16-22 and 39-41 are pending. Of these claims, claims 4, 7-8, 11-12 and 19 have been “withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a...nonelected Species.” Accordingly, claims 1-3, 5-6, 9-10, 13-14, 16-18, 20-22 and 39-41 are under active consideration.

Claim 15 stands rejected under 35 U.S.C. 112, second paragraph, “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.” In support of the rejection, the Patent Office states the following:

With regard to claim 15, the term “inverted” makes the claim unclear because the examiner does not understand how the medical catheter is “inverted.” The examiner used the broad definition of “inverted” (based on Merriam-Webster Online Dictionary) and concluded that the medical catheter would be “turned inside out” and this did not make sense to the examiner. The examiner suggests the use of a different term to describe the characteristic and interaction between the medical catheter and the sleeve or further clarification on this matter.

At the outset, Applicants note that claim 15 has been canceled in this paper. Consequently, insofar as the rejection pertains to claim 15, the rejection is moot in view of the cancellation herein of claim 15. However, Applicants also note that claim 1 has been amended in this paper to include the limitations of claim 15 (including the language in question). Consequently, Applicants will address the present rejection in the context of claim 1.

Applicants respectfully traverse the foregoing rejection. As best understood, the Patent Office is contending that the word “inverted” renders the claim unclear because “inverted” means “turned inside out” and it does not make sense to the Patent Office that the catheter would be turned inside out. Applicants, while agreeing with the Patent Office that “inverted” means “turned inside out,” respectfully disagree with the Patent Office that the use of the word “inverted” renders the claim unclear. The claim recites that the proximal end of the medical catheter is inserted up through the transverse bore of the base and the longitudinal bore of the sleeve and is then inverted over the top of the sleeve. This “inversion” or “turning inside out” of the proximal end of the medical catheter over the top of the sleeve (which is performed to secure the medical catheter to the sleeve) can clearly be seen in Fig. 1 of the present application where proximal end 16-2 of tube 16 is inverted over barb 41 of sleeve 21. In addition, a procedure for inverting the proximal end of the medical catheter over the top of the sleeve is discussed in the present specification in the paragraph bridging pages 17 and 18 and is also shown in Figs. 8 and 10 of the present application.

Lastly, it should be noted that claims 3, 24 and 26 of U.S. Patent No. 6,666,853, which patent has been relied upon by the Patent Office in the double patenting rejection of the outstanding Office Action, also uses the term “inverted” to describe the relationship between the proximal end of the medical catheter and the sleeve. The presence of such language in one or more claims of an issued patent is highly probative evidence that such language is not unclear.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claims 1-3, 5-6, 9-10, 15-18 and 20 stand rejected under 35 U.S.C. 102(b) “as being anticipated by Goelz (USPN 5,527,280).” In support of the rejection, the Patent Office states the following:

Goelz has a medical catheter (10), an inner sleeve (32), a cap (38), a fitting (40), an external bolster or base (14), a sleeve (27 [with regards to claim 15]) and a plug (29), wherein the inner sleeve has an open proximal end, an open distal end and a longitudinal bore extending from said open proximal end to said open distal end wherein the fitting has an open proximal end and an open distal end, said open distal end of said fitting being coupled to said proximal end of said inner sleeve in such a way as to permit materials to pass between said fitting and said inner sleeve (See Figure 2, 4, 6 and entire reference).

With regards to claim 15 wherein the medical catheter further comprising a body, said body having a base and a sleeve, said base having a transverse bore, said sleeve extending upwardly from said base and having a longitudinal bore, said longitudinal bore of said sleeve being aligned with said transverse bore of said base, said proximal end of said medical catheter being inserted up through said transverse bore of said base and said longitudinal bore of said sleeve and then inverted over the top of said sleeve. (See Figure 2, 4, 6 and entire reference)

Insofar as the foregoing rejection pertains to claim 15, the rejection is moot in view of Applicants' cancellation herein of claim 15. Insofar as the foregoing rejection pertains to claims 1-3, 5-6, 9-10, 16-18 and 20, Applicants respectfully traverse the foregoing rejection. Claim 1, from which claims 2-3, 5-6, 9-10, 16-18 and 20 depend, has been amended herein and now recites "[a] medical catheter assembly comprising:

(a) a medical catheter, said medical catheter having a proximal end, a distal end and a longitudinal bore, said distal end being shaped to define an internal bolster;

(b) an inner sleeve, said inner sleeve having a proximal end and a distal end, at least a portion of said inner sleeve being removably disposed within said longitudinal bore of said medical catheter; and

(c) a body, said body having a base and a sleeve, said base having a transverse bore, said sleeve extending upwardly from said base and having a longitudinal bore, said longitudinal bore of said sleeve being aligned with said transverse bore of said base, said proximal end of said medical catheter being inserted up through said transverse bore of said base and said longitudinal bore of said sleeve and then inverted over the top of said sleeve.”

Claim 1 is neither anticipated by nor rendered obvious over Goelz for at least the reason that Goelz fails to teach or to suggest a medical catheter assembly comprising, among other things, a body having a sleeve wherein the proximal end of the medical catheter is inverted over the top of said sleeve. The Patent Office has apparently identified element 10 (11?) of Goelz as corresponding to the claimed medical catheter and element 27 of Goelz as corresponding to the claimed sleeve. However, it can readily be seen that the proximal end of element 10/11 of Goelz is not inverted over the top of element 27.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claims 1-3, 5-6, 9-10, 15-16 and 20 stand rejected under 35 U.S.C. 102(b) “as being anticipated by McNeely et al. (USPN 5,458,583).” In support of the rejection, the Patent Office states the following:

McNeely et al. has a medical catheter (13), an inner sleeve (30), a fitting, an external bolster or base (25), a sleeve (22 [with regards to claim 15]), and wherein the inner sleeve has an open proximal end, an open distal end and a longitudinal bore extending from said open proximal end to said open distal end wherein the fitting has an open proximal end and an open distal end, said open distal end of said fitting being coupled to said proximal end of said inner sleeve in such a way as to permit materials to pass between said fitting and said inner sleeve (See Figure 3, 6, 9 and entire reference).

With regards to claim 15 wherein the medical catheter further comprising a body, said body having a base and a sleeve, said base having a transverse bore, said sleeve extending upwardly from said base and having a longitudinal bore, said longitudinal bore of said sleeve being aligned with said transverse bore of said base, said proximal end of said medical catheter being inserted up through said transverse bore of said base and said longitudinal bore of said sleeve and then inverted over the top of said sleeve. (See Figure 3, 6, 9 and entire reference)

Insofar as the foregoing rejection pertains to claim 15, the rejection is moot in view of Applicants' cancellation herein of claim 15. Insofar as the foregoing rejection pertains to claims 1-3, 5-6, 9-10, 16 and 20, Applicants respectfully traverse the foregoing rejection.

Claim 1, from which claims 2-3, 5-6, 9-10, 16 and 20 depend, is neither anticipated by nor rendered obvious over McNeely et al. for at least the reason that McNeely et al. fails to teach or to suggest a medical catheter assembly comprising, among other things, a body having a sleeve wherein the proximal end of the medical catheter is inverted over the top of said sleeve. The Patent Office has apparently identified element 13 of McNeely et al. as corresponding to the claimed medical catheter and element 22 of McNeely et al. as corresponding to the claimed sleeve. However, it can readily be seen that the proximal end of element 13 of McNeely et al. is not inverted over the top of element 22.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claims 1-3, 5-6, 9-10, 13-14 and 20 stand rejected under 35 U.S.C. 102(b) "as being anticipated by Santomieri (USPN 3,938,530)." In support of the rejection, the Patent Office states the following:

Santomieri discloses a medical catheter (1), an inner sleeve (6, 14), a fitting (16), an external bolster or base and a plug (17), wherein the inner sleeve has an open proximal end, an open distal end and a

longitudinal bore extending from said open proximal end to said open distal end wherein the fitting has an open proximal end and an open distal end, said open distal end of said fitting being coupled to said proximal end of said inner sleeve in such a way as to permit materials to pass between said fitting and said inner sleeve (See Figures 1-3 and entire reference).

Applicants respectfully traverse the foregoing rejection. Claim 1, from which claims 2-3, 5-6, 9-10, 13-14 and 20 depend, is neither anticipated by nor rendered obvious over Santomieri for at least the reason that Santomieri fails to teach or to suggest a medical catheter assembly comprising, among other things, a body having a sleeve wherein the proximal end of the medical catheter is inverted over the top of said sleeve.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claims 1-3, 5-6, 9-10, 15-18 and 20 stand rejected under 35 U.S.C. 102(b) “as being anticipated by Adair (USPN 3,946,741).” In support of the rejection, the Patent Office states the following:

Adair has a medical catheter (12), an inner sleeve (14), a cap (60), a fitting (52), an external bolster or base (54), and a sleeve (62) ([with regards to claim 15]), wherein the inner sleeve has an open proximal end, an open distal end and a longitudinal bore extending from said open proximal end to said open distal end wherein the fitting has an open proximal end and an open distal end, said open distal end of said fitting being coupled to said proximal end of said inner sleeve in such a way as to permit materials to pass between said fitting and said inner sleeve (See Figure 2 and entire reference).

With regards to claim 15 wherein the medical catheter further comprising a body, said body having a base and a sleeve, said base having a transverse bore, said sleeve extending upwardly from said base and having a longitudinal bore, said longitudinal bore of said sleeve being aligned with said transverse bore of said base, said proximal end of said medical catheter being inserted up through said transverse bore of said base and said longitudinal bore of said sleeve

and then inverted over the top of said sleeve. (See Figure 2 and entire reference)

Insofar as the foregoing rejection pertains to claim 15, the rejection is moot in view of Applicants' cancellation herein of claim 15. Insofar as the foregoing rejection pertains to claims 1-3, 5-6, 9-10, 16-18 and 20, Applicants respectfully traverse the foregoing rejection.

Claim 1, from which claims 2-3, 5-6, 9-10, 16-18 and 20 depend, is neither anticipated by nor rendered obvious over Adair for at least the reason that Adair fails to teach or to suggest a medical catheter assembly comprising, among other things, a body having a sleeve wherein the proximal end of the medical catheter is inverted over the top of said sleeve. The Patent Office has apparently identified element 12 of Adair as corresponding to the claimed medical catheter and element 62 of Adair as corresponding to the claimed sleeve. However, it can readily be seen that the proximal end of element 12 of Adair is not inverted over the top of element 62.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claims 1-3, 5-6, 9-10, 13-18 and 20-22 stand rejected "under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-31 of U.S. Patent No. Chu et al. (USPN 6,666,853)." In support of the rejection, the Patent Office states that "[a]lthough the conflicting claims are not identical, they are not patentably distinct from each other because they both contain the medical catheter, the inner sleeve, the cap, the clamp, the body, the fitting, the plug and the sleeve."

Applicants respectfully traverse the foregoing rejection. The Patent Office is apparently contending that both claims 1-3, 5-6, 9-10, 13-18 and 20-22 of the present application and claims 1-31 of U.S. Patent No. 6,666,853 recite, among other things, "the medical catheter [and] the inner

sleeve.” Applicants respectfully disagree. None of the claims of U.S. Patent No. 6,666,853 recite the combination of a medical catheter and an inner sleeve, wherein the medical catheter has a longitudinal bore and wherein at least a portion of the inner sleeve is removably disposed within the longitudinal bore of the medical catheter. Instead, the only sleeve recited in any of the claims of U.S. Patent No. 6,666,853 is the sleeve of the body, said sleeve not being insertable into the medical catheter and, therefore, being distinguishable from the claimed inner sleeve.

Moreover, nothing in U.S. Patent No. 6,666,853 suggests the desirability of inserting an inner sleeve into the longitudinal bore of the medical catheter.

Accordingly, for at least the above reasons, the foregoing rejection should be withdrawn.

Claims 21-22 have been indicated by the Patent Office as being “allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action, as well as the double patenting rejection and to include all of the limitations of the base claim and any intervening claims.”

In response to the above, claim 21 has been re-written in independent form (claim 22 depending from claim 21 and, therefore, not being in need of being re-written in independent form). As discussed above, the outstanding rejection under 35 U.S.C. 112, second paragraph, and the outstanding double patenting rejection should be withdrawn. Therefore, claims 21 and 22 are believed to be in allowable form.


New claims 39-41, which are readable on the elected species, depend from claim 1 and, therefore, are patentable for at least the same reasons as claim 1.

In conclusion, it is respectfully submitted that the present application is in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.


Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 9, 2004.


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